

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on February 8, 2001 at 3 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Edward Butcher (R)
Sen. William Crismore (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Debbie Shea (D)
Sen. Jon Tester (D)

Members Excused: Sen. Eve Franklin (D)
Sen. Bill Tash (R)

Members Absent: None.

Staff Present: Roberta Opel, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 215, HB 142, 2/6/2001
Executive Action: None.

HEARING ON HB 215

Sponsor: REP. JIM SHOCKLEY, HD 61, Victor

Proponents: Toby Day, Montana Wildlife Federation

Opponents: Doug Monger, Fish, Wildlife & Parks (FWP), Parks Division

Opening Statement by Sponsor:

REP. SHOCKLEY presented HB 215 which would keep specific, designated primitive parks in their current status without further improvements. The ambience within these parks is desirable, he said. He also noted that retaining a park in its primitive status would require fewer expenses.

Proponents' Testimony:

Toby Day, Montana Wildlife Federation, offered support for the bill noting that the bill would prevent, for example, an RV at one of his favorite fishing accesses keeping primitive areas primitive.

Opponents' Testimony:

Doug Monger, Administrator, FWP, Parks Division, submitted written testimony of the Administrative Rules of Montana (ARM) which regulate primitive fishing access sites. **EXHIBIT(fis32a01)**

Questions from Committee Members and Responses:

SEN. PETE EKEGREN told **REP. SHOCKLEY** the differences between the bill and the rules seemed minimal. He suggested that FWP and the sponsor should work to incorporate these differences into statute rather than rules.

Mr. Monger said he agreed there were very slight differences within the bill. The main difference between statute and administrative rule, he explained, is that rules allow flexibility without waiting for the next legislative session.

SEN. EKEGREN asked if FWP could make these decisions more rapidly.

Mr. Monger said perhaps, depending on the timing of the legislative session and the localization of the subject.

SEN. EKEGREN said that department testimony was sensible. He questioned why the bill continued to come before the legislature each session.

REP. SHOCKLEY said the bill does not regard local control but is focused on whether elected representatives or the department are better suited to make decisions. He explained there had been a long debate with support from the conference committee but FWP took their concern to the governor and the decision was overturned.

SEN. BILL TASH said he had reviewed the bill thoroughly and on the basis of his review, proposed amendments. **EXHIBIT(fis32a02)** He told the committee HB 215 attempts to "micro-manage" access sites.

SEN. BILL CRISMORE asked **Mr. Monger** if dust issues in some of the primitive parks could be completely controlled through current rules.

Mr. Monger said dust abatement would be allowed according to ARM but added that current rules would not allow paving at primitive parks.

SEN. CRISMORE asked **Mr. Monger** if it would be easier for communities to communicate with the legislature or the department.

Mr. Monger replied the department would be available to local citizens in any area. HB 215 addresses what is disallowed within administrative rules and not what is allowed, he clarified.

SEN. AL BISHOP asked for an explanation of the term "developing" as stated in ARM as it relates to picnic tables or lawn mowing.

Mr. Monger explained that a developed camping area is an area with camp spurs off of the main area or there may be a mowed area or a picnic area without individual pull-outs, he added.

SEN. BISHOP recognized that all camping areas do not have picnic tables.

Mr. Monger replied that was true.

SEN. TASH asked **REP. SHOCKLEY** why he had not signed the fiscal note.

REP. SHOCKLEY responded he did not have much faith in fiscal notes.

SEN. JON ELLINGSON asked **Mr. Monger** what the public process would be for rule-making specifically in relation to public meetings.

Mr. Monger answered that administrative process must be publicly noticed through the FWP Commission. Public review of Commission proceedings is always available, he said. The specific concerns of landowner's adjacent to the parks is regularly addressed at these meetings.

SEN. ELLINGSON asked **REP. SHOCKLEY** to explain what type of local participation constituted a representative sampling.

REP. SHOCKLEY replied the public process and subsequent participation was dependent on the issue.

{Tape : 1; Side : A}

SEN. SPRAGUE asked **REP. SHOCKLEY** if one of the purposes of the legislation was to eliminate resident use fees. In light of the number of tourists arriving for the Lewis & Clark Bicentennial, wouldn't it fair for tourists to pay a small amount to subsidize these programs, he asked.

REP. SHOCKLEY said Montanans do not pay a fee but tourists do. He clarified that he did not believe the upcoming Lewis & Clark tourist situation was relevant to the bill.

SEN. SPRAGUE asked for clarification, then, to eliminate resident use fees.

REP. SHOCKLEY said these eliminated fees would only apply to tourists.

SEN. SPRAGUE asked how a Montana resident would prove he was a resident rather than a tourist.

REP. SHOCKLEY replied that if an individual had a Montana driver's license, he would be considered a Montana resident.

SEN. SPRAGUE asked how this distinction would be enforced if the bill becomes law.

Mr. Monger replied that, typically, FWP does not charge fees at any of the sites. Approximately 70% of the use at fishing accesses is by Montana residents.

SEN. SPRAGUE remarked that the fiscal impact, then, would be fairly accurate.

Mr. Monger said the revenue portion of the bill was accurate at \$10,000 or \$12,000. All fishing access sites are operated and maintained with fishing license dollars. He clarified that some sites are used for camping only and are no longer fishing sites.

SEN. SPRAGUE asked **REP. SHOCKLEY** to explain his statement, "it depends on the issue." If issues arise, who will deal with these concerns, he asked.

Closing by Sponsor:

REP. SHOCKLEY responded that if concerns were not controlled through legislation, difficulties for these primitive parks (including the possible development of KOA's) would continue to grow. The main question before the committee, he said, would be whether lawmakers want to retain control or trust FWP to be in control. He added that he felt the legislature would be better equipped.

HEARING ON HB 142

Sponsor: REP. ROGER SOMERVILLE, HD 78, Kalispell

Proponents: Chris Smith, Chief of Staff, Fish, Wildlife & Parks (FWP)
Jean Johnson, MT. Outfitter's & Guides Association
Toby Day, MT. Wildlife Federation

Opponents: Mable Deane, MT. State Houndsmen Association (MSHA)
Rob Walker, MSHA

Opening Statement by Sponsor:

REP. SOMERVILLE told the committee HB 142 would grant authority to the FWP Commission to establish rules limiting the number of non-resident mountain lion hunters. He told the committee there is currently a problem in northwestern Montana (Region 1) related to non-resident lion hunters harvesting the majority of lions.

EXHIBIT(fis32a03)

Proponents' Testimony:

Chris Smith, Chief of Staff, FWP, stated HB 142 is an agency-requested bill which would allow the FWP Commission to adopt rules limiting non-resident mountain lion hunters in designated hunting districts. Department testimony included amendments to the bill. **EXHIBIT(fis32a04)**

Jean Johnson, MT. Outfitter's & Guides Association, told the committee HB 142 was a good bill improved by the proposed amendments. She said MOGA appreciated inclusion of "historical outfitter use" in the bill/amendments.

{Tape : 1; Side : B}

Toby Day, representing Montana Wildlife Federation, spoke in support of HB 142.

Opponents' Testimony:

Mable Deane, MT. State Houndsmen Association, secretary, testified that non-resident hunters are not the only problem in Region 1. **EXHIBIT(fis32a05)**

Rob Walker, President, MSHA, elaborated on her statement by stating that many of the problems in Region 1 are ethical problems related to the numerous lion females killed who still have kittens. **EXHIBIT(fis32a06)**

Questions from Committee Members and Responses:

SEN. ED BUTCHER inquired about the number of mountain lions harvested statewide.

Don Childress, Administrator, Wildlife, FWP, answered that not all quotas are reached every year. There is substantial variation year to year, he explained. There are approximately 73 mountain lion hunting districts statewide. Currently, 27 districts are already closed, he added.

SEN. BUTCHER recalled Mr. Walker's statement regarding lion kittens. He wondered if aging statistics had been done on mountain lion kills.

Mr. Childress said lion hunters are required to turn the lion in to FWP to determine the age of the animal. He agreed that that the average age of lion kills is younger than in prior years. He stated he did not believe the mountain lion population had declined statewide.

SEN. BUTCHER told the committee the Lewistown area was overrun with mountain lions. He asked Mr. Childress if he felt there was a difference between the Lewistown area and Region 1.

Mr. Childress replied there is a good lion population in Region 1 because there are good road systems and good snow conditions. As you travel east of the Continental Divide, he said, lion hunting conditions deteriorate, he said.

SEN. BUTCHER asked if hunters are re-directed to other areas of the state when a hunting district closed.

Mr. Childress said lion hunters are not sent anywhere but noted that they are very mobile. FWP has a hotline lion hunters can call to determine quotas in hunting districts.

SEN. BILL CRISMORE inquired about mountain lion licenses when there is only one hound-permit per five or six hunters.

Mr. Childress answered that anyone hunting or using hounds is required to have a license.

SEN. CRISMORE wondered if a hunter, without hounds, would be allowed to kill a lion when he was driving down a road.

Mr. Childress said he was certain that scenario occurred.

SEN. CRISMORE said the scenario he described is a concern in his area where there are too many lions. At times, non-resident hunters sometimes will not allow him to pass on the road, he told the committee.

SEN. JON ELLINGSON asked what current restrictions, if any, there were on lions.

Mr. Smith said there were no limits on the number of non-resident lion licenses or on the number of hound-handler permits available over the counter. However, lion licenses have to be purchased prior to the season opener.

SEN. ELLINGSON asked if a hunter purchased a hound-handler permit, would he need to indicate the number of dogs being used.

Mr. Smith redirected the question to **Mr. Childress**.

Mr. Childress said the permit does not designate the number of dogs. The permit is free and has been used primarily to help distinguish the chase line, he clarified.

SEN. ELLINGSON said he understood from previous testimony that each hunter using hounds would need to have a permit.

Mr. Childress replied each hunter would have to possess a lion license.

SEN. ELLINGSON asked if each hunter needed a hound-handler permit.

Mr. Childress said only one hunter would need a hound-handler permit. During the current season, every hunter must have a

license. The hound-handler license is not in effect at this time but is available to the Commission as a regulatory tool.

SEN. ELLINGSON asked if the bill passed, would the number of non-resident licenses and hound-handler permits be restricted.

Mr. Childress said he could not pre-suppose what the Commission would do. All criteria has been listed for the Commission to examine, he added.

SEN. BUTCHER asked if resident and non-resident licenses were the same price.

Mr. Childress said resident lion licenses are \$15 and non-resident licenses are set at \$320.

SEN. JACK WELLS inquired if the hunter-handler needed both a lion and a hound-handler permit.

Mr. Childress replied that under current regulations, a hound-handler permit is not required but all hunters pursuing mountain lions must have a license.

SEN. CRISMORE asked if Idaho allowed non-resident lion hunters to bring hounds to the hunt.

Mr. Childress said Idaho did allow hounds but their numbers were restricted.

SEN. CRISMORE asked **Mable Deane** to explain her statement regarding residents hunting with non-resident license holders.

Mable Deane said she had reviewed mountain lion trophy licenses and there were some non-residents harvesting lions with resident (but non-outfitted) hound-handlers.

SEN. WELLS asked if it was possible to tree a lion and judge the age of the animal.

Rob Walker replied that the MSHA will produce a pamphlet on how to age mountain lions. Track size, stride length and area scrapes indicate lion age, he stated.

SEN. BUTCHER asked **Rob Walker** if he could distinguish between a two-year-old tom cat and a female.

Rob Walker said that he could distinguish between a young tom and a female in a tree but not between a three-year-old cat and a five-year old cat. A lion with coloration(s) and canine tooth

wear would indicate the animal is probably over the age of three, he told the committee.

SEN. BUTCHER asked if he knew what percentage of non-resident hunters had a significant lion-hunting experience.

Rob Walker answered that some non-resident hunters would not allow him to pass. He noticed these particular hunters did not realize they were tracking a bear and not a mountain lion.

SEN. SPRAGUE asked the sponsor if there was additional work to be done on the bill.

SEN. WELLS agreed to carry the bill.

{Tape : 2; Side : A}

Closing by Sponsor:

REP. SOMERVILLE said a sub-committee had accomplished considerable work on the bill. Fee increases cannot be incorporated into this bill, he emphasized. He stated he would like to a clearer definition of good biology in the bill.

Discussion:

Doug Monger, Administrator, FWP, Parks Division, presented a video (filmed in the summer, 2000) showing the Headwaters State Park. The video depicted the campground, pull-out and interpretive areas. FWP agreed that the three sign locations currently in place at Headwaters could be replaced with a low-lying cluster. Any stabilization work allowed by statute could be accomplished at this time, he said.

SEN. TASH asked if this stabilization was necessary because of current drought conditions.

Mr. Monger said flows in the river seemed to be normal at this time.

SEN. SPRAGUE asked if the \$80,000 grant would still be available for use at the Headwaters.

Mr. Monger said that the appropriation was still available.

SEN. SPRAGUE noted that the amendment was needed to improve the bill.

Discussion:

Committee members discussed the possibility of another educational trip with FWP.

ADJOURNMENT

Adjournment: 5:10 P.M.

SEN. MIKE SPRAGUE, Chairman

ROBERTA OPEL, Secretary

MS/RO